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PATENT

### Remarks

#### Amendments

The amendments above insert the limitations of claims 6 and 7 into independent claim 1, and the limitations of claim 7 and 20 into claim 19, and thus do not constitute new matter. Claims 2, 3, 10, and 21 are amended to conform to the language of claims 1 and 19. Thus, no new matter is added. Claims 4-7, 11-18 and 20 are cancelled without prejudice, and may be presented again in a copending application.

#### Summary of the Invention

The claimed invention overcomes an annoying property of brown sugar. Brown sugar, in the form commonly sold in the United States, is a moist composition containing refined or partially refined sugar and molasses. It is typically sold in sealed boxes or bags by weight (e.g., 1 lb, 2 lbs, 5 lbs) in a comparatively "loose" form (i.e., not packed). It cannot be measured accurately by volume in this form, however, as it does not flow freely and thus does not fill a measuring container. Consequently, recipes that require brown sugar typically specify a quantity of "firmly packed" brown sugar: one is intended to pack and compress the brown sugar into the measuring vessel until the vessel can accept no more. The result is an accurately-measured solid lump of brown sugar in the shape of the measuring vessel, which typically must then be "unpacked" or dispersed before use. Frequently, the brown sugar is added to dry ingredients, such as flour and baking powder, and must be thoroughly mixed into the dry ingredients before proceeding with the recipe. The consumer or end user cannot return the packed brown sugar to its original state, and invariably leaves hard lumps of brown sugar scattered throughout the mixture. Common granulated sugar ("white sugar") does not present these problems, as it flows freely.

The claimed invention overcomes both problems. By providing a pre-measured portion of brown sugar in an individual container, in a loose form but in an amount corresponding to a firmly packed quantity, the consumer avoids the need to measure the sugar, and the need to pack

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it into a measuring vessel. The bags can be filled by the manufacturer on the basis of a weight that corresponds to the packed quantity. For example, if the manufacturer determines that its brown sugar product, when packed into a ½ cup measure, weighs (for example) 197 g, it can simply fill bags marked "1/2 cup" with 197 g of loose brown sugar. The consumer who requires ½ cup of firmly packed brown sugar for a recipe simply opens a bag of loose brown sugar marked "1/2 cup", and uses it without needing to pack it into a ½ cup measure.

Restriction Requirement/Election of Species

Applicant confirms his election of Species II, directed toward freely-flowing product. It should be noted, however, that Species II is more accurately characterized by the fact that pre-measured portions are individually packaged, whereas Species I is characterized by the fact that the pre-measured portions are cleaved from a unitary mass. For example, it is possible to package an ingredient such as brown sugar in the individual bags of Species II, while permitting some degree of compression such that the sugar forms a regular shape, e.g., inside the bag, without departing greatly from the advantages of Species II.

Claims 1-11 and 19-24 are considered drawn to Species II, while non-elected claims 12-18 are considered drawn to Species I. Claims 1-6, 8-11, and 19-24 are applicable to both species.

Rejection Under §102(b) Over Pichardo

Claims 1, 8 and 9 were rejected as anticipated under §102(b) over Pichardo, US 2,745,751 ("Pichardo"). Applicant respectfully submits that this rejection is overcome by the above amendment of claim 1. As Pichardo does not disclose the packaging of brown sugar, and does not disclose packaging loose brown sugar in an amount equivalent to a pre-measured portion of firmly-packed brown sugar, the reference fails to anticipate the claimed invention.

Rejection Under §103(a) Over Pichardo

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Claims 2-7, 10 and 11 were rejected as obvious under §103(a) over Pichardo. Applicant respectfully traverses. As set forth above, Pichardo does not disclose or suggest the packaging of brown sugar, and does not disclose or suggest packaging loose brown sugar in an amount equivalent to a pre-measured portion of firmly-packed brown sugar. Thus, Pichardo failed to render the claimed invention obvious.

Pichardo considered only the convenience of preparing a single cup of coffee using pre-measured ingredients: he did not consider the differences between brown sugar and common granulated sugar, and thus was unaware of the problem solved by the present invention. Further, Pichardo's invention was directed solely toward the use of sugar (and powdered cream) in hot drinks, where much smaller quantities are required. Additionally, the clumping of brown sugar is not problematic where it is to be dissolved into a hot liquid (dispersion into dry ingredients is the problem commonly encountered in baking), so Pichardo fails to suggest the need for packaging brown sugar in the manner claimed. Granulated sugar does not require packing for accurate measuring, nor does it hold a solid shape when compressed (at least when compressed using kitchen implements commonly available to a consumer).

Finally, granulated sugar as disclosed in Pichardo occupies substantially the same volume when packed as when loose. In contrast, brown sugar does not: to obtain ½ cup of firmly packed brown sugar, one may require approximately a cup or more of loose brown sugar. Nothing in Pichardo suggested that one could package a quantity of loose brown sugar that corresponds to a packed quantity, in a container labeled with that packed quantity. Accordingly, Applicant respectfully submits that the reference fails to render the claimed invention obvious.

#### Rejection of Claims 19-23

Claims 19 and 23 were rejected as anticipated under §102(b) over "Food" (reference U), reference V or reference W. Claim 20 was rejected as anticipated under §102(b) over references V or W. Claims 21-23 were rejected as obvious under §103(a) over references U, V, or W, all further in view of Pichardo. Applicant respectfully traverses.

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References U and V specifically disclosed packets of sugar intended (and sized for) individual portions, rather than for baking. Reference U specifies only "sugar", and is presumably common granulated sugar, as is typically used in coffee or tea. Reference V disclosed individual packets of "Sugar in the Raw", which is not a brown sugar within the meaning of the application. See the specification at page 2, lines 33-34: "[brown sugar] excludes sugar that has been granulated or otherwise treated to avoid caking if it does not compress or pack." "Sugar in the Raw" is granulated and freely-flowing, having been treated by rinsing to avoid stickiness. See <http://www.sugarintheraw.com/html/faqs/index.html>:

"Sugar In The Raw is a natural, unrefined sugar made from sugar cane grown in Maui. Juice is extracted from the sugar cane, and then crystallized through evaporation. These crystals are rinsed with a very small amount of water to remove just enough stickiness to make the product free flowing. We pack this turbinado sugar and market it as Sugar In The Raw."

Reference W also appears to disclose sugar (including brown sugar) packaged for individual beverage portions (iced tea).

All three references each fail to disclose or suggest brown sugar packaged in a quantity corresponding to a volume of packed brown sugar, nor do they disclose or suggest brown sugar packaged in quantities convenient for baking. Thus, these references fail to anticipate or render obvious the invention as presently claimed. Further, as discussed above, Pichardo failed to suggest packaged brown sugar with the claimed features, and thus fails to render the claimed invention obvious, alone or in combination with references U, V, or W.

The cited references all disclose the packaging of teaspoon quantities of sugar for use in individual beverages. Nothing in the cited references suggested extrapolating such quantities up to substantial fractions of a cup, nor to provide such conveniences to the baker in the kitchen, rather than the office worker drinking coffee. Thus, none of the references mentions the difficulties encountered when using brown sugar as a baking ingredient, nor how these difficulties could be overcome. It might appear obvious to select such quantities for packaging but only in hindsight. At the time the invention was made, without Applicant's suggestion that quantities of brown sugar convenient for baking can be individually packaged, the claimed

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invention was not taught or suggested anywhere in the prior art. It is also noted that although the teachings of Pichardo have been available since their publication in 1956, they have apparently not been applied to the packaging of brown sugar (other than perhaps for individual beverages), despite the fact that brown sugar has been manufactured and sold in the United States for years preceding that. Long unmet need is a secondary indication of non-obviousness. Applicant admits that the invention is simple. Simple, however, does not constitute obviousness.

#### Rejection of Claim 24

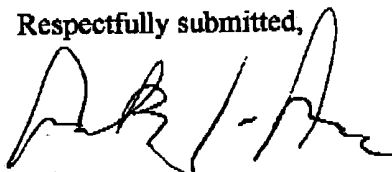
Claim 24 was rejected as obvious under §103(a) over the combination of references U, V, or W, all further in view of Modern Packaging (reference X), Tremaine (GB 24151), Salfisberg (AU 113,301), Knoop et al. (US 2,791,324) and Cozzie (US 5,664,670). Applicant respectfully traverses.

Claim 24 depends from claim 19, which has been amended to incorporate the limitations of claims 7 and 20. As set forth above, Applicant respectfully asserts that Pichardo and references U, V, and W fail to render claim 19 obvious or anticipated. The additional cited references disclose concatenated packages, but fail to disclose the packaging of brown sugar. Thus, Applicant respectfully asserts that the combination of references failed to disclose or render obvious the claimed invention.

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Applicant respectfully submits that the claims are presently in condition for allowance, and solicit such action. If there is any question or issue that can be resolved through a telephone discussion, the Examiner is invited to telephone the undersigned at the number below.

Respectfully submitted,



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Claims 2-7, 10 and 11 were rejected as obvious under §103(a) over Pichardo. Applicant respectfully traverses. As set forth above, Pichardo does not disclose or suggest the packaging of brown sugar, and does not disclose or suggest packaging loose brown sugar in an amount equivalent to a pre-measured portion of firmly-packed brown sugar. Thus, Pichardo failed to render the claimed invention obvious.

Pichardo considered only the convenience of preparing a single cup of coffee using pre-measured ingredients: he did not consider the differences between brown sugar and common granulated sugar, and thus was unaware of the problem solved by the present invention. Further, Pichardo's invention was directed solely toward the use of sugar (and powdered cream) in hot drinks, where much smaller quantities are required. Additionally, the clumping of brown sugar is not problematic where it is to be dissolved into a hot liquid (dispersion into dry ingredients is the problem commonly encountered in baking), so Pichardo fails to suggest the need for packaging brown sugar in the manner claimed. Granulated sugar does not require packing for accurate measuring, nor does it hold a solid shape when compressed (at least when compressed using kitchen implements commonly available to a consumer).

Finally, granulated sugar as disclosed in Pichardo occupies substantially the same volume when packed as when loose. In contrast, brown sugar does not: to obtain ½ cup of firmly packed brown sugar, one may require approximately a cup or more of loose brown sugar. Nothing in Pichardo suggested that one could package a quantity of loose brown sugar that corresponds to a packed quantity, in a container labeled with that packed quantity. Accordingly, Applicant respectfully submits that the reference fails to render the claimed invention obvious.

#### Rejection of Claims 19-23

Claims 19 and 23 were rejected as anticipated under §102(b) over "Food" (reference U), reference V or reference W. Claim 20 was rejected as anticipated under §102(b) over references V or W. Claims 21-23 were rejected as obvious under §103(a) over references U, V, or W, all further in view of Pichardo. Applicant respectfully traverses.